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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

Library 1974

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 19th October, 1974/Asvina 27, 1896 (Saka)

The following President's Act is published for general information:—

THE INDIAN ELECTRICITY (GUJARAT AMENDMENT) ACT, 1974

NO. 12 OF 1974

Enacted by the President in the Twenty-fifth Year of the Republic of India.

An Act further to amend the Indian Electricity Act, 1910 in its application to the State of Gujarat.

In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1974, the President is pleased to enact as follows:— 11 of 1974.

1. (*1*) This Act may be called the Indian Electricity (Gujarat Amendment) Act, 1974. Short title and commencement.

(*2*) Save as otherwise provided in this Act, it shall come into force at once.

2. In section 6 of the Indian Electricity Act, 1910 (in its application to the State of Gujarat), (hereinafter referred to as the principal Act),— 9 of 1910. Amendment of section 6.

(*i*) after sub-section (*5*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of May, 1960, namely:—

"(*5A*) Where a notice exercising the option of purchasing the undertaking has been served upon the licensee under this

section, the licensee shall deliver the undertaking to the State Electricity Board, the State Government or the local authority, as the case may be, on the expiration of the relevant period referred to in sub-section (*1*) pending the determination and payment of the purchase price:

Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking *plus* one per centum, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.";

(*ii*) sub-section (*6*) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of May, 1960.

Amendment of section 7.

3. In section 7 of the principal Act, for the words, brackets and figures "or under sub-section (*6*) of section 6", the words, brackets, figures and letter "or under sub-section (*5A*) of section 6" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of May, 1960.

Amendment of section 7AA.

4. In section 7AA of the principal Act,—

(*i*) in sub-section (*1*), for the words, brackets and figures "or under sub-section (*6*) of section 6", the words, brackets, figures and letter "or under sub-section (*5A*) of section 6" shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of March, 1974;

(*ii*) in sub-section (*2*), for the words, brackets and figures "or sub-section (*6*) of section 6", the words, brackets, figures and letter "or sub-section (*5A*) of section 6" shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of March, 1974.

Certain defaults and failures not to be offences.

5. Notwithstanding that the amendments made to sections 6 and 7AA of the principal Act have been given retrospective effect, no default or failure to comply with the provisions of the said section 6 as amended by this Act or the said section 7AA as amended by this Act shall render any person guilty of any offence if such default or failure—

(*a*) relates to the provisions of sub-section (*5A*) as inserted in section 6 of the principal Act by section 2 of this Act; and

(*b*) occurred before the commencement of this Act.

Validation.

6. Notwithstanding anything contained in any judgment, decree or order of any court, every option of purchase of an undertaking exercised by the Gujarat Electricity Board, the State Government of Gujarat or a local authority in the State of Gujarat, by serving a notice upon a licensee under section 6 of the principal Act and every delivery of an undertaking effected by a licensee to the said Electricity Board, State

Government or local authority, as the case may be, in pursuance of such notice, at any time after the 1st day of May, 1960 and before the commencement of this Act, shall be deemed to have been exercised or effected, as the case may be, under section 6 of the principal Act as amended by this Act as if the said section 6 as so amended were in force at all material times when such option was exercised or delivery was effected and accordingly every option of purchase so exercised and every delivery of an undertaking so effected and all things done or actions taken in consequence of such exercise of option or delivery of the undertaking shall be, and shall be deemed always to have been, valid and shall not be called in question in any court or tribunal or before any other authority merely on the ground that section 6 of the principal Act did not provide for the payment of any interest on the purchase price for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

In the *Godhra Electricity Company Ltd. and another* vs. *State of Gujarat and another* (Civil Appeal No. 2016 of 1973), the Supreme Court has held that sub-section (6) of section 6 of the Indian Electricity Act, 1910 is violative of sub-clauses (f) and (g) of clause (1) of article 19 of the Constitution on the ground that, that sub-section, while requiring the licensee to deliver the undertaking to the State Electricity Board, the State Government or the local authority pending determination and payment of purchase price, does not provide for the payment of interest on the purchase price of the undertaking for the period between the date of delivery of the undertaking and the date of payment of the purchase price. Unless the defect pointed out by the Supreme Court is rectified, the Gujarat Electricity Board will be compelled to return the Godhra electricity undertaking to the Godhra Electricity Company. This measure seeks to remove the defect pointed out by the Supreme Court in the aforesaid decision by suitably amending the Indian Electricity Act, 1910. Provision is also being made for validating the purchases of undertakings effected under the impugned sub-section (6) of section 6 of the Act before the commencement of this measure.

2. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee of Parliament on Gujarat Legislation. This measure is accordingly being enacted without reference to the Consultative Committee.

R. V. SUBRAHMANIAN,
Secy. to the Govt. of India,
Ministry of Energy,
(Department of Power).

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